

**Thomas C. Sand, OSB No. 773322**

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**Naomi Levelle Haslitt, OSB No. 075857**

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**Matthew A. Tripp, OSB No. 154394**

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MILLER NASH LLP

1140 SW Washington St, Ste 700

Portland, OR 97205

Phone: 503.224.5858 | Fax: 503.224.0155

*Attorneys for Defendant Winco Foods, LLC and Winco Holdings, Inc.*

IN THE UNITED STATES DISTRICT COURT  
OF THE STATE OF OREGON  
PORTLAND DIVISION

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,

Plaintiff,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.,

Defendant.

Case No.

DEFENDANTS' NOTICE OF REMOVAL

(Multnomah County Circuit Court  
Case No. 24CV25438)

**TO: THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF OREGON, PORTLAND DIVISION**

In accordance with 28 USC §§ 1331, 1367, 1441, and 1446, Defendants hereby  
give notice of the removal of the action entitled *Marie Carter guardian ad litem for Tavaris  
Phillips v. Winco Foods, LLC and Winco Holdings, Inc.*, Case No. 24CV25438, pending in the  
Circuit Court of the State of Oregon for the County of Multnomah (the "State Action") to the  
United States District Court for the District of Oregon (Portland Division).

### **BASIS FOR REMOVAL**

1. On October 18, 2024, Plaintiff filed and mailed to defense counsel a first amended complaint asserting claims under the laws of the United States and under the laws of Oregon. As of the date of this filing, Defendants have not appeared or taken any action in Multnomah County Circuit Court that would prejudice their right to removal.

2. This notice is timely filed within thirty days of service of the amended complaint on Defendants. 28 USC § 1446(b).

3. The requirements of 28 USC § 1441 are satisfied because Plaintiff has alleged claims under 42 USC §1981, which arise under the laws of the United States within the meaning of 28 USC § 1331.

4. The requirements of 28 USC § 1367 are satisfied because Plaintiffs' state-law claims are so related to their claims under 42 USC §1981 that they form part of the same case or controversy under Article III of the United States Constitution.

5. This action may be removed to this court by Defendants under the provisions of 28 USC § 1441 and according to the procedure in 28 USC § 1446.

6. Removal to this district and division is proper under 28 USC § 1441(a) because Plaintiff filed her complaint in Multnomah County Circuit Court.

7. In accordance with 28 USC § 1446(a), a true and accurate copy of all process and pleadings on file with Multnomah County Circuit Court through the date of this notice are attached as Exhibit 1.

8. In accordance with 28 USC § 1446(d), promptly after filing this notice, Defendants will (a) file a copy of this notice with the clerk of the Multnomah County Circuit

Court and (b) give written notice of this notice of removal to plaintiff by serving it on the individuals listed on the certificate of service below.

WHEREFORE, Defendants remove the above-entitled action now pending in the Circuit Court of Multnomah County, State of Oregon, to the United States District Court for the District of Oregon (Portland Division).

Dated: October 31, 2024

MILLER NASH LLP

/s/Matthew A. Tripp

Thomas C. Sand, OSB No. 773322

tom.sand@millernash.com

Naomi Levelle Haslitt, OSB No. 075857

naomi.haslitt@millernash.com

Matthew A. Tripp, OSB No. 154394

matthew.tripp@millernash.com

Attorneys for Winco Foods, LLC and Winco Holdings, Inc.

FILED MULTNOMAH CO CIRCUIT COURT  
JUL 24 PM 4:31

\_Verified Correct Copy of Original 7/25/2024.\_

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,

Plaintiffs,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendants.

Case No. 24CV35438

**PLAINTIFF'S COMPLAINT FOR  
DAMAGES**

Racial Discrimination in violation of Oregon  
Public Accommodation Laws

CLAIM OVER \$50,000

NOT SUBJECT TO MANDATORY  
ARBITRATION

AMOUNT PLEAD: \$4,000,000

Filing Fee \$884 pursuant to ORS 21.160(1)(c)

**JURY TRIAL DEMANDED**

Plaintiffs allege:

First Claim for Relief

Racial Discrimination in Public Accommodations

1.

Defendant WinCo Foods, LLC (WinCo) is a Delaware corporation, registered to do  
business in Oregon. WinCo conducts regular and sustained business in Multnomah County,  
Oregon. WinCo Foods, LLC does business as WinCo Foods.

2.

Defendant WinCo Holdings, Inc. is an Idaho corporation, registered to do business in  
Oregon.

PAGE - 1 – COMPLAINT AND DEMAND FOR JURY TRIAL

Law Offices of Daniel Snyder  
Attorneys At Law  
1000 S.W. Broadway, Suite 2400  
Portland, Oregon 97205  
(503) 241-3617 Fax (503) 241-2249

Exhibit 1, Page 1 of 23

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3.

Defendants WinCo Foods, LLC and WinCo Holdings, Inc. (collectively, WinCo) own or occupy the WinCo Foods grocery store at 7979 SE Powell Blvd in Portland, Oregon.

4.

Marie Carter and her son, Tavaris Phillips, are African Americans.

5.

On May 14, 2023, plaintiffs were business customers at one of WinCo's retail stores, which is located at 7979 SE Powell Blvd in Portland, Oregon.

6.

Marie and Tavaris shopped for groceries together with one basket, however Tavaris had his own money and was going to be buying his own food.

7.

The two of them had less than 30 items combined and were going to do two separate transactions at self-checkout. Both were going to purchase no more than 15 items through the self-checkout line, following the store policy.

8.

Once Marie and Tavaris arrived at self-checkout, the store clerk Linda/Lisa rudely told them that they could not go through the self-checkout line because they had "more than 15 items."

9.

Marie asked to speak to a manager because there should not be a problem with her using the self-checkout line because both her and her son had less than 15 items and would be checking out separately.



10.

The store manager, Jayson, came over and Marie began to explain the situation and how they would be completing two separate transactions. Jayson told her that she had more than 15 items, that she could not use self-checkout, and to leave the store. Plaintiff counted out the 15 items that she was buying with certainty to Jayson and explained that she was not going to get everything in her cart.

11.

While reiterating that she was only getting 15 items, Jayson aggressively spoke over her and told her to, "Go ahead and leave the store," and said, "You guys are done, grab your bags, come on" to escort them out.

12.

Jayson began to aggressively strong arm Marie's cart in an attempt to prevent Plaintiff from checking out.

13.

Marie again began to count out the 15 items, and Jayson would grab them and put them back in the cart. He also said that if she was not going to buy everything, then she had to go back and put everything back that she would not be buying.

14.

Marie asked Jayson why he was harassing her as he is a manager and is supposed to defuse situations and not instigate more conflict by yelling and embarrassing her in front of the store. She then asked again why he was doing this, and if it related to her gender or race. She questioned if because she is African American, they assumed she was going to steal items. Jayson told her to not "bring race into this."

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15.

Marie then pointed out that a Caucasian man next to her at the self-checkout had more than 15 items, was not being harassed about the 15 item limit, and was allowed to check out. Jayson, or anyone else, did not stop the Caucasian man from violating WinCo's alleged 15 item limit or ask him to leave the store.

16.

Jayson continued to be holding onto Marie's cart and as she was trying to get it back, he aggressively snatched it. They were going back and forth when Tavaris told Jayson to "chill out," and Jayson got up in his face and seemed as if he wanted to hit him. Marie told him that Tavaris was only 15.

17.

Marie and Tavaris felt humiliated, violated, and harassed while shopping for dinner for Mother's Day.

18.

The above-described store is and at all times mentioned herein has been a place of public accommodation within the meaning of ORS 659A.400. At least part of the motivation for the above-described conduct on the part of defendant's employee was the plaintiff's race.

19.

The above-described conduct violates ORS 659A.403, which prohibits discrimination in places of public accommodation on account of race.

20.

As a result of the above-described discrimination, Marie and Tavaris suffered and continue to suffer from feelings of racial stigmatization, humiliation, and anger, all to their

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1 noneconomic damages in an amount to be proven at trial, but not to exceed \$4,000,000.

2 21.

3 Marie and Tavaris are entitled to reasonable attorney fees pursuant to ORS 659A.885.

4 22.

5 Plaintiff is entitled to an injunction prohibiting defendants from future discrimination and  
6 violations of ORS 659A.400.

7 **Prayer**

8 WHEREFORE, the Plaintiff prays for judgment against Defendants in the sum of  
9 \$750,000, attorney fees, costs and disbursements incurred herein.  
10

11 **Plaintiffs demand a trial by jury.**

12 DATED: July 24, 2024

13 **LAW OFFICES OF DANIEL SNYDER**

14 s/ Carl Post

15 Carl Post, OSB No. 061058

16 carlpost@lawofficeofdanielsnyder.com

17 John Burgess, OSB No. 106498

johnburgess@lawofficeofdanielsnyder.com

18 Tel: (503) 241-3617 / Fax: (503) 241-2249

19 Attorneys for Plaintiff



IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,

Plaintiffs,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendants.

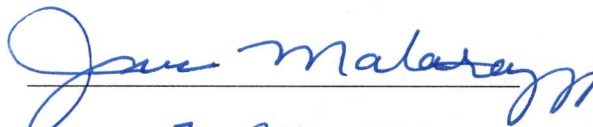
Case No. 24CV 35438

Order

APPOINTING GUARDIAN AD LITEM

It appearing to the court that TAVARIS PHILLIPS is a minor between the ages of 14 and 18, and that no general guardian or conservator has previously been appointed for the minor; and it further appearing that MARIE CARTER is an appropriate person to be appointed guardian ad litem to pursue the minor's claims in the above-entitled case;

IT IS HEREBY ORDERED that MARIE CARTER is appointed guardian ad litem for TAVARIS PHILLIPS in the above-entitled case.

  
7-24-24

Submitted by:

s/ Carl Post

Carl Post, OSB No. 06105  
John Burgess, OSB No. 106498  
Attorney for Petitioner

PAGE 1 – LIMITED JUDGMENT APPOINTING GUARDIAN AD LITEM

Law Offices of Daniel Snyder  
Attorneys At Law  
1000 S.W. Broadway, Suite 2400  
Portland, Oregon 97205  
(503) 241-3617 Fax (503) 241-2249

**CERTIFICATE OF READINESS**

This proposed order or judgment is ready for judicial signature because:

1. ☐ Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
2. ☐ Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
3. ☐ I have served a copy of this order or judgment on all parties entitled to service and:
  - a. ☐ No objection has been served on me.
  - b. ☐ I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
  - c. ☐ After conferring about objections, Defendant agreed to independently file any remaining objection.
4. ☐ The relief sought is against an opposing party who has been found in default.
5. ☐ An order of default is being requested with this proposed judgment.
6. ☒ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
7. ☐ This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.

Date: July 23, 2024

**LAW OFFICES OF DANIEL SNYDER**

s/ Carl Post

Carl Post, OSB No. 061058

[carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

John Burgess, OSB No. 106498

[johnburgess@lawofficeofdanielsnyder.com](mailto:johnburgess@lawofficeofdanielsnyder.com)

Tel: (503) 241-3617/Fax: (503) 241-2249

Attorneys for Plaintiff

PAGE 2 – LIMITED JUDGMENT APPOINTING GUARDIAN AD LITEM

**Law Offices of Daniel Snyder**  
Attorneys At Law  
1000 S.W. Broadway, Suite 2400  
Portland, Oregon 97205  
(503) 241-3617 Fax (503) 241-2249

FILED MULTNOMAH CO CIRCUIT CT  
'24 JUL 24 PM 4:35

Verified Correct Copy of Original 7/25/2024.

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,  
her minor child,

Plaintiffs,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendant.

Case No. 24CV35438

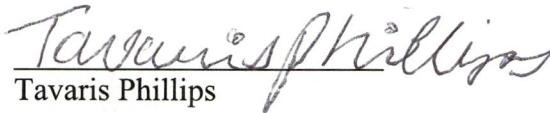
PETITION FOR APPOINTMENT OF  
GUARDIAN AD LITEM

I, Tavaris Phillips, the petitioner, am a minor over the age of 14 years. I have neither a general guardian nor a conservator. My parent, Marie Carter, is a suitable person to be appointed guardian ad litem for me for the purpose of pursuing my claim for damages arising from the racial discrimination incident on May 14, 2023.

WHEREFORE, the petitioner prays for an order appointing Marie Carter as guardian ad litem for the petitioner for purposes of pursuing the above-entitled claim against the defendant.

**I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.**

DATED: May 17<sup>th</sup>, 2024

  
Tavaris Phillips  
Petitioner

PAGE - 1 – PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM



\_Verified Correct Copy of Original 7/25/2024.\_

1 Petitioner:

2 Tavaris Phillips  
3 9937 SE Clinton St.  
4 Portland, OR 97266  
5 (971) 325-3620

6 Attorneys for Petitioner:

7 Carl Post, OSB No. 061058

8 [carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

9 John Burgess, OSB No. 106498

10 [johnburgess@lawofficeofdanielsnyder.com](mailto:johnburgess@lawofficeofdanielsnyder.com)

11 Tel: (503) 241-3617 / Fax: (503) 241-2249

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PAGE - 2 – PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM

Law Offices of Daniel Snyder  
Attorneys At Law  
1000 S.W. Broadway, Suite 2400  
Portland, Oregon 97205  
(503) 241-3617 Fax (503) 241-2249

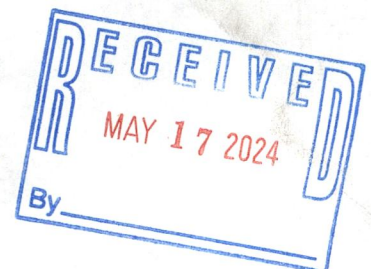


Exhibit 1, Page 9 of 23

**RETURN OF SERVICE****State of Oregon****County of Multnomah**

Case Number: 24CV35438

Plaintiff: **MARIE CARTER, individually, and as guardian ad litem for TAVARIS PHILLIPS**

vs.

Defendant: **WINCO FOODS, LLC and WINCO HOLDINGS, INC.,**

For:

Carl Post

Law Offices of Daniel Snyder

1000 SW Broadway, Suite 2400

Portland, OR 97205

Received by Willamette Valley Processors LLC on the 25th day of July, 2024 at 4:33 pm to be served on **WINCO FOODS, LLC, c/o CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE STE 310, Salem, OR 97301.**

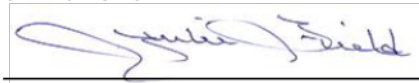
I, Julie Field, do hereby affirm that on the **26th day of July, 2024 at 2:30 pm, I:**

SERVED the within named **WINCO FOODS, LLC at c/o CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE STE 310, Salem, OR 97301** by personally serving a true copy of the **Summons and Complaint to WINCO FOODS, LLC** upon **Christina Hammock**, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

**MAILING** was completed on **7/26/2024** by mailing a true copy of the documents served to the defendant at the address of service along with a statement regarding date, time, and manner of service.

I declare under penalty of perjury that I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding and am authorized to serve the process described herein. I certify that the person, firm, or corporation served is the identical one named in this action. I am not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise.

I hereby declare that the above statement is true to the best of my knowledge and belief and that it is made for use as evidence in court and is subject to penalty for perjury is true.



**Julie Field**  
Process Server  
7/29/2024

**Date**

**Willamette Valley Processors LLC**  
**1097 N 9th St**  
**Philomath, OR 97370**  
**(541) 250-9654**

Our Job Serial Number: WVP-2024001431





**RETURN OF SERVICE****State of Oregon****County of Multnomah**

Case Number: 24CV35438

Plaintiff: **MARIE CARTER, individually, and as guardian ad litem for TAVARIS PHILLIPS**

vs.

Defendant: **WINCO FOODS, LLC and WINCO HOLDINGS, INC.,**

For:

Carl Post

Law Offices of Daniel Snyder

1000 SW Broadway, Suite 2400

Portland, OR 97205

Received by Willamette Valley Processors LLC on the 25th day of July, 2024 at 4:33 pm to be served on **WINCO HOLDINGS, INC.,, c/o CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE STE 310, Salem, OR 97301.**

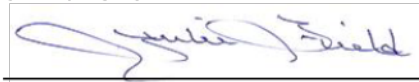
I, Julie Field, do hereby affirm that on the **26th day of July, 2024 at 2:30 pm, I:**

SERVED the within named **WINCO HOLDINGS, INC.,** at **c/o CORPORATION SERVICE COMPANY, 1127 BROADWAY STREET NE STE 310, Salem, OR 97301** by personally serving a true copy of the **Summons and Complaint to WINCO HOLDINGS, INC.** upon **Christina Hammock**, who is a clerk on duty in the office of the Registered Agent and who is authorized to accept service.

**MAILING** was completed on **7/26/2024** by mailing a true copy of the documents served to the defendant at the address of service along with a statement regarding date, time, and manner of service.

I declare under penalty of perjury that I am a resident of the State of Oregon. I am a competent person 18 years of age or older and not a party to or attorney in this proceeding and am authorized to serve the process described herein. I certify that the person, firm, or corporation served is the identical one named in this action. I am not a party to nor an officer, director, or employee of, nor attorney for any party, corporate or otherwise.

I hereby declare that the above statement is true to the best of my knowledge and belief and that it is made for use as evidence in court and is subject to penalty for perjury is true.



**Julie Field**  
Process Server  
7/29/2024

**Date**

**Willamette Valley Processors LLC**  
**1097 N 9th St**  
**Philomath, OR 97370**  
**(541) 250-9654**

Our Job Serial Number: WVP-2024001430



IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,  
her minor child,

Plaintiff,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendants.

Case No. 24CV35438

NOTICE OF INTENT TO TAKE  
DEFAULT

TO: Defendant Winco Foods, LLC

Notice is given that Plaintiff will move for an Order of Default to be entered against  
above-named Defendant in the above-captioned case unless an answer or other responsive  
pleading is filed on behalf of the Defendant within 10 days from the date of this notice.

DATED: August 29, 2024

Law Offices of Daniel Snyder

/s/ Carl Post

Carl Post, OSB No. 061058

[carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

John Burgess, OSB No. 106498

[johnburgess@lawofficeofdanielsnyder.com](mailto:johnburgess@lawofficeofdanielsnyder.com)

LAW OFFICES OF DANIEL SNYDER

1000 SW Broadway, Suite 2400

Portland, OR 97205

Tel: (503) 241-3617 | Fax: (503) 241-2249

Of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on the date set forth below I served the attached **NOTICE OF INTENT TO MOVE FOR ORDER OF DEFAULT** on the following attorney(s), party, or parties:

WINCO FOODS, LLC,  
c/o CORPORATION SERVICE COMPANY,  
1127 BROADWAY STREET NE STE 310,  
Salem, OR 97301

by causing to be delivered/served on the date and in the method(s) forth below:

- ☐ By **OJD File & Serve System**.
- ☒ By **regular, first-class mail**, via the United States Post Office, by placing a true copy in a sealed envelope with postage fully prepaid thereon, addressed to the above individual(s) at such individual's last known address.
- ☐ By **emailing** a true copy to the email address(es) listed above.
- ☐ By **faxing** a true copy to the above individual(s) at the facsimile number(s) listed above.
- ☐ By **hand-delivering** or leaving a true copy at the address(es) of the above individual(s).
- ☐ By sending a true copy thereof via **overnight courier** in a sealed, prepaid envelope, to the above individual(s) at such individual's last known address.

DATED: August 29, 2024

**LAW OFFICES OF DANIEL SNYDER**

*/s/ Carl Post*

**Carl Post, OSB No. 061058**

[carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

**John Burgess, OSB No. 106498**

[johnburgess@lawofficeofdanielsnyder.com](mailto:johnburgess@lawofficeofdanielsnyder.com)

Tel: (503) 241-3617 | Fax: (503) 241-2249

Attorneys for Plaintiff

IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,  
her minor child,

Plaintiff,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendants.

Case No. 24CV35438

NOTICE OF INTENT TO TAKE  
DEFAULT

TO: Defendant Winco Holdings, Inc.

Notice is given that Plaintiff will move for an Order of Default to be entered against  
above-named Defendant in the above-captioned case unless an answer or other responsive  
pleading is filed on behalf of the Defendant within 10 days from the date of this notice.

DATED: August 29, 2024

Law Offices of Daniel Snyder

/s/ Carl Post

Carl Post, OSB No. 061058

[carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

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1000 SW Broadway, Suite 2400

Portland, OR 97205

Tel: (503) 241-3617 | Fax: (503) 241-2249

Of Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I certify that on the date set forth below I served the attached **NOTICE OF INTENT TO MOVE FOR ORDER OF DEFAULT** on the following attorney(s), party, or parties:

WINCO HOLDINGS, INC.,  
c/o CORPORATION SERVICE COMPANY,  
1127 BROADWAY STREET NE STE 310,  
Salem, OR 97301.

by causing to be delivered/served on the date and in the method(s) forth below:

- ☐ By **OJD File & Serve System**.
- ☒ By **regular, first-class mail**, via the United States Post Office, by placing a true copy in a sealed envelope with postage fully prepaid thereon, addressed to the above individual(s) at such individual's last known address.
- ☐ By **emailing** a true copy to the email address(es) listed above.
- ☐ By **faxing** a true copy to the above individual(s) at the facsimile number(s) listed above.
- ☐ By **hand-delivering** or leaving a true copy at the address(es) of the above individual(s).
- ☐ By sending a true copy thereof via **overnight courier** in a sealed, prepaid envelope, to the above individual(s) at such individual's last known address.

DATED: August 29, 2024

**LAW OFFICES OF DANIEL SNYDER**

*/s/ Carl Post*

**Carl Post, OSB No. 061058**

[carlpost@lawofficeofdanielsnyder.com](mailto:carlpost@lawofficeofdanielsnyder.com)

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Tel: (503) 241-3617 | Fax: (503) 241-2249

Attorneys for Plaintiff



IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
IN THE COUNTY OF MULTNOMAH

MARIE CARTER, individually, and as  
guardian ad litem for TAVARIS PHILLIPS,

Plaintiffs,

v.

WINCO FOODS, LLC and WINCO  
HOLDINGS, INC.

Defendants.

Case No. 24CV35438

**PLAINTIFF'S FIRST AMENDED  
COMPLAINT**

Racial Discrimination

CLAIM OVER \$50,000

NOT SUBJECT TO MANDATORY  
ARBITRATION

AMOUNT PLEAD: \$4,000,000

Filing Fee \$884 pursuant to ORS 21.160(1)(c)

**JURY TRIAL DEMANDED**

Plaintiff Marie Carter, individually, and as guardian ad litem for Tavaris Phillips alleges:

1.

Defendant WinCo Foods, LLC (WinCo) is a Delaware corporation, registered to do  
business in Oregon. WinCo conducts regular and sustained business in Multnomah County,  
Oregon. WinCo Foods, LLC does business as WinCo Foods.

2.

Defendant WinCo Holdings, Inc. is an Idaho corporation, registered to do business in  
Oregon.

3.

Defendants WinCo Foods, LLC and WinCo Holdings, Inc. (collectively, WinCo) own or  
occupy the WinCo Foods grocery store at 7979 SE Powell Blvd in Portland, Oregon.

4.

Plaintiff Marie Carter and her son, Tavaris Phillips, are African Americans. Plaintiff Marie Carter has been appointed as guardian ad litem for Tavaris Phillips.

5.

On May 14, 2023, Marie and Tavaris were business customers at defendants' store located at 7979 SE Powell Blvd in Portland, Oregon.

6.

When Marie and Tavaris arrived at self-checkout, the store clerk (believed to be named Linda or Lisa) rudely told them that they could not go through the self-checkout line because they had "more than 15 items." However, the two of them were going to complete separate transactions of no more than 15 items each. Marie asked to speak to a manager because there should not be a problem with her using the self-checkout line because both her and her son had less than 15 items each.

7.

The store manager, Jayson, came over and Marie began to explain the situation and how they would be completing two separate transactions. Jayson told her that she had more than 15 items, could not use self-checkout, and had to leave the store. Plaintiff began counting out the 15 items that she intended to buy and Jayson simultaneously put the items back in their cart.

8.

While reiterating that she was only getting 15 items, Jayson told her to, "Go ahead and leave the store," and said, "You guys are done, grab your bags, come on" to escort them out. Jayson physically prevented them from checking out.

1 9.

2 Marie asked Jayson why he was harassing her as he is a manager and is supposed to  
3 defuse situations and not instigate more conflict by yelling and embarrassing her in front of the  
4 store. She then asked again why he was doing this, and if it related to her gender or race. She  
5 questioned if because she is African American, they assumed she was going to steal items.

6 10.

7 Marie then pointed out that a Caucasian man next to her at the self-checkout had more  
8 than 15 items, was not being harassed about the 15 item limit, and was allowed to check out.  
9 Jayson, or anyone else, did not stop the Caucasian man from violating WinCo's alleged 15 item  
10 limit or ask him to leave the store.

11 11.

12 Jayson continued to be holding onto Marie's cart and as she was trying to get it back, he  
13 aggressively snatched it. They were going back and forth when Tavaris told Jayson to "chill  
14 out," and Jayson got up in his face and seemed as if he wanted to hit him. Marie told him that  
15 Tavaris was only 15.

16 12.

17 Marie and Tavaris felt humiliated, violated, and harassed while shopping for dinner for  
18 Mother's Day. Prevented from purchasing their groceries, Marie and Tavaris left the store  
19 without completing their transactions.  
20  
21  
22  
23  
24  
25  
26

**First Claim for Relief**

**Racial Discrimination in Public Accommodations**

**On behalf of Tavaris Phillips**

13.

Marie and Tavaris reallege all relevant paragraphs above.

14.

The above-described store is and at all times mentioned herein has been a place of public accommodation within the meaning of ORS 659A.400. At least part of the motivation for the above-described conduct on the part of defendants' employee was Tavaris's race.

15.

The above-described conduct violates ORS 659A.403, which prohibits discrimination in places of public accommodation on account of race.

16.

As a result of the above-described discrimination, Tavaris suffered and continue to suffer from feelings of racial stigmatization, humiliation, and anger, all to his noneconomic damages in an amount to be proven at trial, but not to exceed \$2,000,000.

17.

Tavaris is entitled to reasonable attorney fees pursuant to ORS 659A.885.

18.

Plaintiff is entitled to an injunction prohibiting defendants from future discrimination and violations of ORS 659A.400.

**SECOND CLAIM FOR RELIEF**

**(42 U.S.C. § 1981 – Race Discrimination)**

**Marie Carter, individually, and on behalf of Tavaris Phillips**

19.

Marie and Tavaris reallege all relevant paragraphs above.

20.

42 U.S.C. § 1981 provides, in relevant part, that "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens."

21.

The statute further defines the right "to make and enforce contracts" as including the making, performance, modification, and termination of contracts, as well as the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

22.

Marie and Tavaris, as customers of Defendants, entered into a contractual relationship with Defendants by seeking to purchase groceries at the store, a contract for the sale of goods.

23.

During their attempt to complete their purchases, Defendants' employee and store manager, Jayson, refused to allow them purchase their items. The manager's actions were motivated, at least in part, by the race of Marie and Tavaris, who are African American.



24.

The store manager enforced the purported item limit against Plaintiffs but allowed similarly situated white customers, including a Caucasian man at the same self-checkout area with more than 15 items, to complete their transactions without interference or harassment.

25.

Defendants' employees engaged in conduct intended to prevent Marie and Tavaris from completing their transactions and denied them the right to fully enjoy the contractual benefits of their purchases, including the performance and completion of their intended transactions.

26.

Defendants' employee's discriminatory actions, based on Marie and Tavaris's race, violated 42 U.S.C. § 1981 by interfering with their right to make and enforce contracts and to enjoy the benefits, privileges, terms, and conditions of the contractual relationship on the same basis as white citizens.

27.

As a result of the above-described conduct, Marie and Tavaris suffered, continue to suffer, and may permanently suffer from feelings of racial stigmatization, embarrassment, humiliation, anger, indignity, and shame, as well as their loss of their contractual rights, for which Marie and Tavaris seek compensation in an amount to be proven at trial, but no less than \$4,000,000.

28.

Defendants' discriminatory conduct was intentional, willful, and taken with reckless disregard of Plaintiffs' federally protected rights.

29.

Plaintiffs are entitled to reasonable attorneys' fees and costs incurred, including expert witness fees, pursuant to 42 U.S.C. § 1988.

**Prayer**

WHEREFORE, the Plaintiff prays for judgment against Defendants in the sum of \$4,000,000, attorney fees, costs and disbursements incurred herein.

**Plaintiffs demand a trial by jury.**

DATED: October 18, 2024

**LAW OFFICES OF DANIEL SNYDER**

s/ Carl Post

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Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I served the attached on the following attorney(s), party or parties:

Naomi Levelle Haslitt  
Matthew Tripp  
Miller Nash LLP  
1140 SW Washington St, Ste 700  
Portland, OR 97205

**Attorneys for Defendant**

by causing a full, true, and correct copy thereof, addressed to the last-known address of the attorney, party or parties, (except when served by facsimile), sent by the following indicated method on the date set forth below:

- ☐ By **electronic** means through the Court's electronic filing system.
- ☐ By **emailing** a true copy to the email address listed above.
- ☒ By **mailing** a true copy via the United States Post Office, in a sealed envelope with postage fully prepaid thereon, addressed to the above individual(s) at such individual's last known address.
- ☐ By **faxing** a true copy to the above individual(s) at the facsimile number listed above.
- ☐ By **hand-delivering** or leaving a true copy at the regular office of the above individual.
- ☐ By sending a true copy thereof via **overnight courier** in a sealed, prepaid envelope, to the above individual(s) at such individual's last known address.

Date: October 18, 2024

LAW OFFICES OF DANIEL SNYDER

s/ Carl Post

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies under penalty of perjury under the laws of the state of Oregon that, on October 28, 2024, DEFENDANTS' NOTICE OF REMOVAL was served on the person(s) listed below in the manner shown:

Carl Post  
John Burgess  
Law Offices of Daniel Snyder  
1000 SW Broadway, Suite 2400  
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☒ By United States Mail, First Class

☐ By Hand Delivery

☒ By CM/ECF

☐ By Email

Dated at Portland, Oregon, this 31<sup>st</sup> day of October, 2024.

/s/Matthew A. Tripp

Thomas C. Sand, OSB No. 773322  
Naomi Levelle Haslitt, OSB No. 075857  
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